



Federal Communications Commission
Washington, D.C. 20554

May 19, 2010

DA 10-806

Small Entity Compliance Guide

AM Stations' Use of FM Translators

Report and Order
FCC 09-59
MB Docket No. 07-172
Released: June 29, 2009

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
fccinfo@fcc.gov

Objectives of the proceeding

The combination of higher fidelity alternatives to AM radio and increased interference to AM radio have caused an erosion of the AM radio audience and the loss of young listeners to other programming outlets. The rule changes seek to ameliorate this problem by allowing AM stations to use currently authorized FM translator stations (*i.e.*, those licensed or authorized as of May 1, 2009) to rebroadcast their AM signals within their local service areas. These changes will allow AM stations to serve their local communities better, thereby promoting the Commission's goals of localism, competition, and diversity in the broadcast media.

Rules That the Commission Amended

- The Commission changed its FM translator permitted service rule (47 C.F.R. § 74.1231) and definition rule (47 C.F.R. § 74.1201) to allow an AM station to rebroadcast its signal on a currently authorized FM translator, provided that the translator's signal coverage contour (the 60 dBu contour) must not extend beyond the smaller of (a) the 2 mV/m daytime contour of the AM station, or (b) a 25-mile radius from the AM transmitter site. However, the Commission noted that it does not intend to allow such translators to be used as surrogates for FM stations or to circumvent the local radio ownership limits. Therefore, the Commission noted that it would be considered an abuse of process if two or more FM translators were used to create a *de facto* FM station or to circumvent local radio ownership limits.
- The Commission changed its FM translator program origination rules (47 C.F.R. §§ 74.1231(h) and 74.1263) to allow a daytime-only AM station to originate programming on a currently authorized FM translator at night, provided that the translator meets the coverage limits described above.
- The Commission changed its FM translator eligibility rule (47 C.F.R. § 74.1232(d)) to allow a third party with a currently authorized FM translator to rebroadcast an AM station as the translator's primary station pursuant to a valid retransmission consent agreement with the licensee of the AM station, provided that the translator meets the coverage limits described above.

Impact on Small Business

These rule modifications will have no significant adverse impact on small entities. The rule changes may benefit small entities that hold AM station licenses or FM translator licenses.

Steps a Small Entity Must Take to Retransmit an AM Station's Signal on an FM Translator

The rule changes took effect on October 1, 2009. In order to retransmit an AM station on an FM translator station, a small entity that operates an AM station must:

- Identify an FM translator that meets the eligibility criteria (authorized as of May 1, 2009 and with a 60 dBu contour that does not extend beyond the smaller of (a) the 2 mV/m daytime contour of the AM station, or (b) a 25-mile radius from the transmitter site). (If an FM translator is authorized to operate locally but its contour exceeds the permitted area, it may be possible to apply on FCC Form 349 for a minor modification of the translator's license to meet the criteria.)
- Either enter into a rebroadcast agreement with the licensee of the translator or enter into an agreement to purchase the translator, subject to FCC approval (on FCC Form 345).
- On any form filed with the FCC, identify the AM station as the primary station to be retransmitted by the translator station. If there is only a retransmission agreement, the licensee of the translator must notify the FCC by letter of the change in primary station and certify that it has written consent from the licensee of the AM station for the retransmission of that station's signal (47 C.F.R. § 74.1284(b)).

Recordkeeping and Other Compliance Requirements

The Commission did not add any new reporting, recordkeeping or compliance requirements in its FM translator rules (47 C.F.R. §§ 74.1201 – 74.1290).

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http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-59A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-59A2.doc